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PATENT

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D.C. 20231 on 5/13/92

5/13/92

Date

Kate H. Murashige  
Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

See 1. below

Serial No.:

Group Art Unit:

Filing Date:

Examiner:

Title:

DECLARATION OF KATE H. MURASHIGE  
UNDER 37 CFR 1.28(c)(2)

The Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

I, Kate H. Murashige, declare as follows.

1. I am the responsible attorney of record in the  
below-identified applications and prepared and filed the  
below-identified applications:

<u>Serial No.</u>	<u>Filing Date</u>
07/559,958	July 30, 1990
07/559,957	July 30, 1990
07/585,780	September 20, 1990
07/594,147	October 10, 1990
07/595,870	October 11, 1990
07/617,907	November 23, 1990

07/625,680	December 10, 1990
07/640,654	January 14, 1991
07/643,382	January 18, 1991
07/652,978	February 2, 1991
07/683,420	April 8, 1991
07/690,786	April 24, 1991.

2. I was aware at the time of filing the above-identified application that the parent applications and/or other related patent applications had claimed small-entity status. Accordingly, I provided the assignee, Gilead Sciences, with a Verified Statement Claiming Small-entity Status - 37 CFR 1.9(f) and 1.27(c), which was returned signed by Michael L. Riordan for filing in the USPTO.

3. On receipt of the Blue Filing Receipt, I routinely sent a letter to Dr. Daryl Muenchau, Gilead Sciences, which in part requested that I be notified immediately if any rights to the invention of the above-identified patent applications changed in the future to an entity which might not qualify for small-entity status. A true copy of such a routine letter is attached as Exhibit A.

4. At the time of filing the above-identified patent applications, I was aware that Gilead Sciences had been negotiating an agreement with a large company, but was not asked to and did not review or know the content of the agreement. Particularly, I did not know that an agreement had been executed in July, 1990 or that it might cover licensing of existing technology now contained in the above-identified patent applications.

5. In view of the fact that I was aware that small biotechnology companies routinely and more often enter into research agreements rather than license agreements with

larger companies, I had no reason to inquire if this agreement related to any current technology of Gilead's which is represented by the above-identified patent applications.

6. I first became aware of the relationship of the above-identified applications to an agreement with a large company that did not qualify for small entity status when Dr. Daryl Muenchau recently informed me of the existence of the relevant agreement with a large company, provided me a list of the applications on which Gilead had requested small entity status in error, and asked me to promptly convert these applications from small-entity status, including payment of any differences in past fees.

7. No attempt was made improperly or through gross negligence to (i) establish status as a small entity, or (ii) pay fees as a small entity. The error occurred in good faith but through inadvertence and without deceptive intent as described herein.

8. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the applications or any patent issuing thereon.

Date 4/28/92

Kate H. Murashige  
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